



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2012 REGULAR SESSION

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HOUSE BILL NO. 545

AS ENACTED

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FRIDAY, MARCH 30, 2012

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ALISON LUNDERGAN GRIMES  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Hollar

1 AN ACT relating to governmental revenue functions and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 134.010 is amended to read as follows:

4 As used in this chapter, unless the context requires otherwise:

5 (1) "Certificate of delinquency" means a tax claim on real property for taxes that:

6 (a) Remains unpaid on April 15 under the regular collection schedule, or three (3)  
7 full months and fifteen (15) days from the date the taxes were due under an  
8 alternative collection schedule as determined under KRS 134.015; and

9 (b) Has been filed with the county clerk pursuant to KRS 134.122;

10 (2) "Chief executive" means the elected head of the executive branch of government in  
11 a city or county;

12 (3) "Commissioner" means the commissioner of the department;

13 (4) "County" includes counties, urban-county governments, charter county  
14 governments, consolidated local governments, and unified local governments;

15 (5) "Department" means the Department of Revenue;

16 (6) "Governing body of a county" means the elected legislative body of a county;

17 (7) "Omitted property" means property described in KRS 132.290;

18 (8) "Personal property" includes every species and character of property, tangible and  
19 intangible, other than real property;

20 (9) "Personal property certificate of delinquency" means a personal property tax claim  
21 that:

22 (a) Remains unpaid as of April 15 under the regular collection schedule or three  
23 (3) full months and fifteen (15) days from the date the taxes were due under an  
24 alternative collection schedule as determined under KRS 134.015; and

25 (b) Has been filed with the county clerk pursuant to KRS 134.122;

26 (10) "Priority certificate of delinquency" means a certificate of delinquency available for  
27 sale that relates to a parcel of property against which a third-party purchaser already

- 1 holds a certificate of delinquency from a prior tax year;
- 2 (11) "Protected list" means the list submitted to the county clerk by the county attorney  
3 of certificates of delinquency not eligible for sale pursuant to KRS 134.504(10);
- 4 (12) (a) "Property taxes" means the ad valorem taxes due the state, a county, a county  
5 school district, or other taxing district;
- 6 (b) "Property taxes" also includes any other ad valorem taxes imposed by a  
7 governmental entity that are included on the same property tax bill as the  
8 levies listed in paragraph (a) of this subsection and that the sheriff is  
9 responsible for collecting either through a statutory requirement or agreement  
10 with a taxing district;
- 11 (13) "Real property" includes all lands within the state and improvements thereon;
- 12 (14) "Taxpayer" means the owner of property on the assessment date, or any person  
13 otherwise made liable by law for ad valorem taxes attributable to that assessment  
14 date;
- 15 (15) "Tax claim" includes the taxes due on a tax bill, the penalties, costs, fees, interest,  
16 commissions, the lien provided in KRS 134.420 and any other expenses that have  
17 become or are by reason of the delinquent tax bill proper legal charges imposed by  
18 this chapter against the delinquent taxpayer at any given time; and
- 19 (16) "Third-party purchaser" means a purchaser of a certificate of delinquency.
- 20 ➔Section 2. KRS 134.122 is amended to read as follows:
- 21 (1) (a) The sheriff shall, on April 15 or three (3) months and fifteen (15) days from  
22 the date the taxes were due under an alternative collection schedule, file all tax  
23 claims on real and personal property remaining in his or her possession with  
24 the county clerk, except that in a consolidated local government the sheriff  
25 shall have fourteen (14) working days from the required filing date to file the  
26 delinquent tax claims with the county clerk.
- 27 (b) The content of the information provided by the sheriff to the county clerk shall

1 be determined by the department through the promulgation of an  
2 administrative regulation.

3 (c) The county clerk shall acknowledge receipt of the tax claims by providing the  
4 sheriff with a receipt in the format required by the department.

5 (d) If the sheriff fails to file the tax claims as required by this subsection, the  
6 sheriff shall be liable on his or her bond for the aggregate amount of the tax  
7 claims not filed with the clerk.

8 (2) (a) Upon filing with the county clerk, a real property tax claim shall become a  
9 certificate of delinquency and a personal property tax claim shall become a  
10 personal property certificate of delinquency, and the department, rather than  
11 the sheriff, shall be responsible for the collection of all amounts due in  
12 accordance with KRS 134.504.

13 (b) Certificates of delinquency and personal property certificates of delinquency  
14 filed with the county clerk are owned by the taxing jurisdictions whose taxes  
15 are included as part of the certificate of delinquency or personal property  
16 certificate of delinquency.

17 (c) The clerk shall accept payment for certificates of delinquency as provided in  
18 KRS 134.126 and 134.127.

19 (d) A certificate of delinquency or personal property certificate of delinquency  
20 shall include:

- 21 1. The face amount of the tax due;
- 22 2. The ten percent (10%) penalty as provided in KRS 134.015; and
- 23 3. The sheriff's commission and the ten percent (10%) sheriff's add-on as  
24 provided in KRS 134.119~~]; and~~
- 25 4. ~~Any advertising costs incurred by the county as provided in KRS~~  
26 ~~134.128(5)(e)]~~.

27 (e) The certificate of delinquency or personal property certificate of delinquency

1 shall be prima facie evidence that:

- 2 1. The property represented by the certificate of delinquency or personal  
3 property certificate of delinquency was subject to the taxes levied  
4 thereon, and that the property was assessed as required by law;
- 5 2. The tax claim was valid and correct in all respects; and
- 6 3. The taxes were not paid any time before the establishment of the  
7 certificate of delinquency or personal property certificate of delinquency.

8 (3) If, in the process of collecting property taxes, the county clerk becomes aware of a  
9 new address for a taxpayer, the county clerk shall provide, using a form provided by  
10 the department, the information relating to the new address to the property valuation  
11 administrator, who shall update his or her records to reflect the new address.

12 ➔Section 3. KRS 134.127 is amended to read as follows:

13 (1) (a) The following persons may pay to the county clerk at any time the total  
14 amount due on a certificate of delinquency or personal property certificate of  
15 delinquency that is owned by the taxing jurisdictions and in the possession of  
16 the county clerk. It shall be the responsibility of the person seeking to pay the  
17 county clerk to provide sufficient proof to the county clerk that he or she  
18 meets the requirements to pay under this paragraph. The county clerk shall be  
19 held harmless if he or she relies upon information provided and accepts  
20 payment from a person not qualified to pay under this paragraph. The county  
21 clerk may also accept partial payments from these persons:

- 22 1. The person primarily liable on the certificate of delinquency or personal  
23 property certificate of delinquency, or a person paying on behalf of the  
24 person primarily liable on the certificate, provided that a person paying  
25 on behalf of the person primarily liable on the certificate under this  
26 paragraph shall, notwithstanding the provisions of KRS 134.126(5), be  
27 treated in the same manner as the person primarily liable on the

1 certificate and shall not be treated as an assignee or a transferee under  
2 the provisions of this chapter; and

- 3 2. The following persons may pay a certificate of delinquency or personal  
4 property certificate of delinquency that relates to the specific property in  
5 which he or she has an interest, other than a person whose only interest  
6 in the property is an interest resulting from a prior year certificate of  
7 delinquency:

- 8 a. Any person having a legal or equitable estate in real property  
9 subject to a certificate of delinquency;  
10 b. A tenant or lawful occupant of real property, or a bailee or person  
11 in possession of any personal property; or  
12 c. Any person having a mortgage on real property or a security  
13 interest in real or personal property.

14 Upon full payment of a certificate of delinquency under this  
15 subparagraph, KRS 134.126(5), (6), (7), and (8) shall apply regarding  
16 the rights and interests of the person making the payment.

- 17 (b) Any other person may pay the total amount due on a certificate of delinquency  
18 that is owned by the taxing jurisdictions and in the possession of the county  
19 clerk to the county clerk after ninety (90) days have passed from the filing of  
20 the tax claims with the county clerk in accordance with KRS 134.128.

- 21 (c) 1. Only the persons listed in paragraph (a) of this subsection may pay a  
22 personal property certificate of delinquency. Personal property  
23 certificates of delinquency shall not be included in any sale conducted  
24 under KRS 134.128, and may not be purchased by any third party not  
25 specifically listed in paragraph (a) of this subsection.

- 26 2. A certificate of delinquency on property of a public service company  
27 that is centrally assessed, and that includes personal property and real

1                   property on the same certificate of delinquency, shall be treated for all  
2                   purposes as a certificate of delinquency on real property.

3   (2)   The duties of the county clerk with regard to payment of a certificate of delinquency  
4           or personal property certificate of delinquency by a person other than the person  
5           primarily liable on the certificate, are set forth in KRS 134.126(5) and (6).

6   (3)   (a)   The delinquent taxpayer or any person having a legal or equitable estate in the  
7           property covered by a certificate of delinquency may, at any time, pay the total  
8           amount due to a third-party purchaser of a certificate of delinquency. The  
9           third-party purchaser may also accept payment from any other person at any  
10          time.

11       (b)   When full payment for a certificate of delinquency is made to a third-party  
12           purchaser, the third-party purchaser shall execute a release of the lien in  
13           accordance with the provisions of KRS 382.365. The remedies included in  
14           KRS 382.365 shall apply if the third-party purchaser fails to release the lien as  
15           provided in KRS 382.365.

16       (c)   Any person other than the person primarily liable on a certificate of  
17           delinquency who pays a certificate of delinquency to a third-party purchaser  
18           may, by paying a fee pursuant to KRS 64.012, have the county clerk record  
19           the payment, and the recordation shall constitute an assignment thereof, and  
20           KRS 134.126(6) and (8) shall apply. Failure of an assignee to record the  
21           assignment shall render the claim of such person to any real estate represented  
22           thereby inferior to the rights of other bona fide purchasers, payors, or  
23           creditors.

24       (d)   If the third-party purchaser fails to release the lien in accordance with the  
25           provisions of KRS 382.365, or to surrender the certified copy of the certificate  
26           of delinquency to the person making full payment within thirty (30) days after  
27           payment has been tendered at the mailing address designated in the notice

1 required by KRS 134.490 or the mailing address of record in the county clerk's  
2 office if no notice has been provided as required by KRS 134.490, the person  
3 making the payment shall have all of the remedies provided in KRS 382.365.

- 4 (e) 1. A person entitled to make payment under this section who is having  
5 difficulty locating the third-party purchaser of the certificate of  
6 delinquency to make payment may send a registered letter addressed to  
7 the third-party purchaser of record at the address reflected in the most  
8 recent notice received from the third-party purchaser pursuant to KRS  
9 134.490, or if no notice has been received, at the address reflected in the  
10 records of the county clerk, indicating a desire to make payment. If the  
11 letter is returned by mail unclaimed, or if the third-party purchaser fails  
12 to respond in writing within thirty (30) days, the sender may take to the  
13 county clerk as proof of mailing the certified mail receipts stamped by  
14 the post office showing that the certified letter was mailed to the correct  
15 address and the date it was mailed. If the letter was returned, the sender  
16 shall also provide the returned letter to the clerk. The sender shall attest  
17 under oath that the letter was mailed to the correct address, and if the  
18 letter was not returned, the attestation shall also provide that the third-  
19 party purchaser did not respond in writing within thirty (30) days of the  
20 date the letter was mailed. The department shall develop attestation  
21 forms for distribution to the county clerks that include a notice that any  
22 false statement made in the attestation shall be punishable by law. The  
23 form shall be a public record under KRS 519.010(2), subject to KRS  
24 519.060(1)(a). The clerks' taking of such testimony shall be an official  
25 proceeding under KRS 523.010(3).
- 26 2. Upon the acceptance of proof and attestation by the county clerk that the  
27 person has failed in his or her attempt to contact the third-party



1 purchaser about making payment, the person may pay the full amount  
 2 due as reflected in the records maintained by the county clerk plus  
 3 applicable interest, and the county clerk shall make the necessary  
 4 assignment or release of the certificate of delinquency. The county clerk  
 5 shall also discharge any notice filed pursuant to KRS 382.440 or  
 6 382.450 as provided in KRS 382.470, except the county clerk shall  
 7 prepare and record an in-house release executed by the county clerk  
 8 along with the proof of payment, rather than requiring the signature  
 9 or writing as required by KRS 382.470. The clerk shall receive a fee  
 10 pursuant to KRS 64.012 for recording the release.

- 11 3. The county clerk shall deposit the money paid in an escrow account for  
 12 this specific purpose in a bank having its deposits insured with the  
 13 Federal Deposit Insurance Corporation. The name of the bank in which  
 14 the money is deposited shall be noted on the certificate of delinquency.  
 15 The county clerk may maintain one (1) escrow account for all deposits  
 16 made pursuant to this subparagraph and shall maintain a record  
 17 reflecting the amount due each owner of a certificate of delinquency.
- 18 4. The county clerk may deduct the sum of twenty dollars (\$20) as a fee for  
 19 such service.
- 20 5. The county clerk shall mail a copy of the certificate of delinquency by  
 21 regular mail to the third-party purchaser of record at the address on the  
 22 certificate of delinquency.
- 23 6. If any county clerk fails to pay to the person entitled thereto, upon  
 24 written demand clearly identified as a demand for payment, the money  
 25 received in payment of a certificate of delinquency, the county clerk and  
 26 the county clerk's sureties shall be liable for the amount of the payment  
 27 and twenty percent (20%) interest thereon annually from the fifteenth

1 day after the time the county clerk received the written demand until  
2 paid.

3 (4) Copies of the records provided for in this section and KRS 134.126, when certified  
4 by the county clerk, shall be evidence of the facts stated in them in all the courts of  
5 this state.

6 ➔Section 4. KRS 134.128 is amended to read as follows:

7 (1) The sale of certificates of delinquency by county clerks to persons other than those  
8 listed in KRS 134.127(1)(a) shall be conducted in accordance with the provisions of  
9 this section.

10 (2) The department shall promulgate administrative regulations to establish a process  
11 for the purchase and sale of certificates of delinquency to third parties. The process  
12 developed by the department shall:

13 (a) Establish an annual statewide schedule for the sale of certificates of  
14 delinquency in each county. The schedule shall be published on the  
15 department's Web site at least ten (10) days prior to the first sale. The sale in  
16 each county shall be administered by the county clerk.

17 1. The sale in each county ~~and~~ shall be scheduled at least ninety (90)  
18 days but not more than one hundred thirty-five (135) days after the  
19 unpaid tax claims are filed by the sheriff with the county clerk, unless  
20 the provisions of subparagraph 2. of this paragraph apply. The  
21 department may stagger the schedule so that sales are conducted on  
22 different dates and times in different counties;

23 2. A county clerk who:

24 a. Due to the assessment schedule established by the department,  
25 anticipates receiving certificates of delinquency relating to  
26 unmined coal, oil or gas reserves, or any other mineral or energy  
27 resources assessed separately from the surface real property

pursuant to KRS 132.820 too late to be included in the annual sale scheduled during the timeframes established by subparagraph 1. of this paragraph; and

b. Wants to include those certificates in the annual sale for the year in which the certificates of delinquency are created; may submit a request to the department to hold the annual sale for that county up to one hundred ninety-five (195) days after the bulk of the unpaid tax claims are filed by the sheriff with the county clerk in accordance with KRS 134.122.

- (b) Except as provided in KRS 134.127(1)(a), prohibit the payment of any newly filed certificates of delinquency by a third party prior to the scheduled annual sale of certificates of delinquency for that year for that county;
- (c) Prohibit the payment of any certificates of delinquency:
  - 1. Involved in bankruptcy litigation in which the county attorney or department has filed a claim;
  - 2. Involved in other litigation initiated by the county attorney or the department, or in which the county attorney or department responds or files a claim; or
  - 3. Under a payment plan that has been agreed to by the taxpayer and the county attorney or the department, and on which the payment agreement is in good standing;
- (d) Establish a process to be used by county clerks in determining the order in which interested third-party purchasers may select and pay available certificates of delinquency at the annual sale. The process shall, at a minimum:
  - 1. Be uniform in all counties to the extent practicable;
  - 2. Establish a process, if there is more than one (1) purchaser registered to

1 purchase certificates of delinquency at the sale, that allows all interested  
2 purchasers an opportunity to purchase certificates of delinquency on an  
3 equitable basis. The sale shall not be structured in such a manner to  
4 allow one (1) third party to purchase all of the certificates of delinquency  
5 if there are other properly registered third parties that are also interested  
6 in purchasing certificates of delinquency;

7 3. Establish fairness for all participants by prohibiting the participation of  
8 multiple related entities, or multiple individuals representing related  
9 interests as separate entities in the selection process at an annual sale.  
10 The department shall define "related entities" and "related interests" as  
11 part of the regulatory process; and

12 4. Establish a process to be used by county clerks in identifying, verifying,  
13 and selling priority certificates of delinquency. The process shall:

14 a. Require third-party purchasers to submit a list of priority  
15 certificates of delinquency to the county clerk up to ten (10) days  
16 before the annual sale so that the clerk may identify and allocate  
17 priority certificates of delinquency to third-party purchasers prior  
18 to the annual sale;

19 b. Require that all priority certificates of delinquency allocated to a  
20 third-party purchaser prior to the annual sale be removed from the  
21 annual sale;

22 c. Allow any third-party purchaser holding a certificate of  
23 delinquency on a parcel of property from a prior year to submit a  
24 priority list and purchase any priority certificates of delinquency to  
25 which the third-party purchaser is entitled, notwithstanding that the  
26 third-party purchaser may be related to another third-party  
27 purchaser participating in the sale; and

- 1           d. Give priority to the third-party purchaser holding a certificate of
- 2           delinquency from the most recent tax year if more than one (1)
- 3           third party holds an outstanding certificate of delinquency on a
- 4           parcel of property;
- 5       (e) Require all potential participants in the sale to register at least one (1) week in
- 6           advance with the county clerk;
- 7       (f) Require a review of the list of registered participants, either by the county
- 8           clerk or the department, prior to the sale to ensure that:
  - 9           1. All registered participants seeking to pay multiple certificates of
  - 10           delinquency are properly registered with the department as required by
  - 11           KRS 134.129; and
  - 12           2. No registered participants or related entities or related interests
  - 13           prohibited from separate participation in the annual sale pursuant to the
  - 14           provisions of paragraph (d)3. of this subsection and the administrative
  - 15           regulations promulgated thereunder have separately registered to
  - 16           participate in the annual sale;
- 17       (g) Establish advance deposit requirements for registered participants based upon
- 18           the maximum amount the registered participant may pay for desired
- 19           certificates of delinquency;
- 20       (h) Establish a registration fee to be paid to the clerk~~{upon registration for a sale}~~.
- 21           The registration fee paid to each county shall not exceed two hundred fifty
- 22           dollars (\$250) annually and may be tiered;
- 23       (i) Establish payment requirements, which may include nullification of the
- 24           payment and forfeiture of the advance deposit if a third-party purchaser fails
- 25           to produce full payment within the specified time; and
- 26       (j) Establish payment methods.
- 27       (3) Any person who, in any calendar year:

- 1 (a) Pays or plans to pay more than five (5)~~[-or more]~~ certificates of delinquency  
2 statewide;
- 3 (b) Pays or plans to pay more than three (3)~~[-or more]~~ certificates of delinquency  
4 in any county; or
- 5 (c) Invests or plans to invest more than ten thousand dollars (\$10,000) in the  
6 payment of certificates of delinquency on a statewide basis in any calendar  
7 year;
- 8 shall register with the department annually as provided in KRS 134.129.
- 9 (4) The department shall be responsible for monitoring the sale of certificates of  
10 delinquency.
- 11 (5) (a) At least thirty (30) but not more than forty-five (45) days before the scheduled  
12 sale date, the county clerk shall cause a notice to be published in accordance  
13 with the provisions of KRS Chapter 424. The notice shall list by property  
14 owner, property address, and if available, parcel number or lot number, all  
15 certificates of delinquency available for sale. The notice shall provide the date,  
16 time, and location of the sale. In addition, the notice shall list, in a separate  
17 section, all personal property certificates of delinquency held by the county  
18 clerk.
- 19 (b) As compensation for advertising the sale, the county clerk shall receive five  
20 dollars (\$5) for each certificate of delinquency and personal property  
21 certificate of delinquency advertised. The fee shall be added to the amount of  
22 the certificate of delinquency or personal property certificate of delinquency  
23 and shall be paid by the person paying the certificate of delinquency or  
24 personal property certificate of delinquency.
- 25 (c) The cost of placing the advertisement shall be paid by the county. The cost  
26 shall be added to the amount of the certificate of delinquency or personal  
27 property certificate of delinquency and shall be paid by the person paying the

1 certificate of delinquency or personal property certificate of delinquency. The  
 2 department shall establish a formula that may be used by counties in  
 3 allocating the advertising costs among the delinquent tax claims. The formula  
 4 shall take into account that a percentage of delinquent tax claims remains  
 5 unpaid.

- 6 (6) Any certificate of delinquency not paid at the annual sale, not subject to a payment  
 7 plan with the department or county attorney, and not known to be in litigation may  
 8 be paid to the county clerk at any time by any person after the sale, provided that:

9 (a) Any person required by KRS 134.129 to register with the department shall  
 10 hold a current certificate of registration at the time of purchase;

11 (b) Any person not previously registered with the county clerk during the  
 12 calendar year shall register with the county clerk and shall pay the  
 13 registration fee established by administrative regulation pursuant to  
 14 subsection (2)(h) of this section; and

15 (c) Any person previously registered with the county clerk during the calendar  
 16 year who has not paid the maximum registration fee for that year shall pay  
 17 the appropriate amount for each certificate of delinquency paid, as  
 18 established by administrative regulation pursuant to subsection (2)(h) of  
 19 this section, until the maximum registration has been paid.

- 20 (7) Any certificate of delinquency received by the county clerk too late to be included  
 21 in the annual sale in any year shall be retained by the clerk until the next  
 22 scheduled annual sale. During that time period, the clerk may accept payment on  
 23 the certificate of delinquency only from those individuals and entities listed in  
 24 subsection (1)(a) of Section 3 of this Act.

25 ➔Section 5. KRS 134.129 is amended to read as follows:

26 (1) Any person who, in any calendar year:

27 (a) Pays or plans to pay directly, indirectly, or through another or others, more

- 1           than five (5)~~[or more]~~ certificates of delinquency statewide;
- 2           (b) Pays or plans to pay directly, indirectly, or through another or others, more
- 3           than three (3)~~[or more]~~ certificates of delinquency in any county; or
- 4           (c) Invests or plans to invest directly, indirectly, or through another or others,
- 5           more than ten thousand dollars (\$10,000) in the payment of certificates of
- 6           delinquency on a statewide basis in any calendar year;
- 7           shall register with the department annually.
- 8       (2) The person shall hold a certificate of registration from the department prior to the
- 9           payment of any certificate of delinquency that results in the person owning more
- 10          than five (5) certificates of delinquency statewide, more than three (3) certificates of
- 11          delinquency in any county, or investing more than ten thousand dollars (\$10,000) in
- 12          the payment of certificates of delinquency statewide in a calendar year.
- 13       (3) The department shall promulgate administrative regulations to establish registration
- 14          requirements and an application process, which may include the imposition of an
- 15          administrative fee to offset the cost of processing and reviewing the application.
- 16       (4) As part of the application process, the department may require that the applicant and
- 17          any of its directors, officers, members, and managers:
- 18           (a) Are current and in good standing on all taxes owed to the Commonwealth;
- 19           (b) Are in good standing with regard to operations under a previously issued
- 20           certificate of registration;
- 21           (c) Have not previously operated without obtaining a certificate of registration
- 22           under this section under circumstances where he or she should have
- 23           registered; and
- 24           (d) Have a satisfactory record with the Office of Consumer Protection within the
- 25           Office of the Attorney General. What constitutes a satisfactory record shall be
- 26           determined by the department through the promulgation of an administrative
- 27           regulation.



Any applicant failing to meet one (1) or more of these requirements may be denied a certificate of registration.

(5) (a) The department may decline to issue a certificate of registration to any applicant who does not meet the requirements established by this chapter and the administrative regulations promulgated thereunder.

(b) The department may suspend or revoke a certificate of registration if the person holding the certificate violates the provisions of this chapter or the administrative regulations promulgated thereunder.

➔ Section 6. KRS 134.490 is amended to read as follows:

(1) The following notices shall be sent by a third-party purchaser to the delinquent taxpayer by first-class mail with proof of mailing, and shall include the information required by subsection (3)(d) of this section:

(a) Within fifty (50) days after the delivery of a certificate of delinquency by the clerk to a third-party purchaser, the third-party purchaser shall send~~[- to the delinquent taxpayer by first-class mail with proof of mailing,]~~ a notice to the delinquent taxpayer informing the delinquent taxpayer that the certificate of delinquency has been purchased by the third-party purchaser; ~~and~~~~[- The notice shall include the information required by subsection (3) of this section.]~~

(b) At least annually thereafter, until the notice required by subsection (2) of this section is sent, the third-party purchaser shall send a notice to the delinquent taxpayer.

(2) Anytime after the expiration of the one (1) year tolling period established by KRS 134.546, the third-party purchaser may institute an action to collect the amount due on a certificate of delinquency. At least forty-five (45) days before instituting a legal action, the third-party purchaser shall send to the taxpayer by first-class mail with proof of mailing, a notice informing the taxpayer that enforcement action will be taken. This notice shall also include the information required by subsection (3) of

1 this section, and shall be in addition to any notice sent under subsection (1) of  
 2 this section.

3 (3) (a) 1. For certificates of delinquency for all property except property described  
 4 in paragraph (b) of this subsection, third-party purchasers or their  
 5 designees shall obtain from the office of the property valuation  
 6 administrator of the county in which the real property is located the most  
 7 recent address for the property owner.

8 2. To obtain information from the office of the property valuation  
 9 administrator, the third-party purchaser shall, at the option of the  
 10 property valuation administrator, either:

11 a. Obtain information from an up-to-date public access list or Web  
 12 site offered by the property valuation administrator; or

13 b. Submit a list of addresses, map identification numbers, or parcel  
 14 numbers for which updated information is requested to the  
 15 property valuation administrator, who shall {:

16 a.—} update his or her records with regard to the properties for which  
 17 information is requested; and

18 {b.—} provide the updated information to the third-party purchaser  
 19 within ten (10) days.

20 3. For this service, the property valuation administrator may charge a fee  
 21 not to exceed two dollars (\$2) for each address provided or obtained.

22 4. Except as provided in paragraph (b) of this subsection [~~subparagraph 5.~~  
 23 ~~of this paragraph~~], the third-party purchaser shall send the notices  
 24 required by subsections (1) and (2) of this section to the address  
 25 provided by the property valuation administrator. Unless the provisions  
 26 of subparagraph 7. of this paragraph apply, the third-party purchaser  
 27 shall not be required to send a notice to any party other than the

owner of record as provided by the property valuation administrator at the time the notice is sent.

5. If, due to insufficient staffing, the property valuation administrator is unable to provide the requested information to the third-party purchaser within ten (10) days of submission, the property valuation administrator shall immediately notify the third-party purchaser, and the third-party purchaser may send the notices required by subsections (1) and (2) of this section to the address reflected in the public records of the property valuation administrator.

6. Any notices sent pursuant to information obtained under this paragraph that are returned as undeliverable shall be re-sent by first-class mail with proof of mailing addressed to the "Occupant" at the address of the property that is the subject of the certificate of delinquency. These notices shall be sent within twenty (20) days of receipt of the returned notice.

7. If a third-party purchaser becomes aware of a more recent or more accurate address for a delinquent taxpayer that is different from the address reflected in the records of the property valuation administrator, the third-party purchaser shall send notices to the updated address in the manner required by this subsection, and shall notify the property valuation administrator of the updated address.

8. If a third-party purchaser receives an address from the property valuation administrator during an address check after a first notice is sent and returned as undeliverable, and the address is the same as was originally provided, the third-party purchaser shall send the notice addressed to "Occupant" at the address of the property that is the subject of the certificate of delinquency.

- 1 (b) 1. For certificates of delinquency relating to unmined coal, oil~~],~~ or gas  
 2 reserves~~],~~ or any other mineral or energy resources assessed separately  
 3 from the surface real property pursuant to KRS 132.820, third-party  
 4 purchasers or their designees shall obtain from the department the most  
 5 recent address for the property owner.
- 6 2. To obtain information about a particular property, the third-party  
 7 purchaser shall submit to the department a list of addresses, map  
 8 identification numbers, parcel numbers, and any other information the  
 9 department may require. The department shall:
- 10 a. Update its records with regard to the properties for which  
 11 information is requested; and
- 12 b. Provide the updated information to the third-party purchaser within  
 13 ten (10) business days.
- 14 3. For this service, the department may charge a fee not to exceed two  
 15 dollars (\$2) for each address provided.
- 16 4. The third-party purchaser shall send the notices required by subsections  
 17 (1) and (2) of this section relating to unmined coal, oil or gas reserves,  
 18 or any other mineral or energy resources assessed separately from the  
 19 surface real property pursuant to KRS 132.820 to the address provided  
 20 by the department. Unless the provisions of subparagraph 5.f. of this  
 21 paragraph apply, the third-party purchaser shall not be required to  
 22 send a notice to any party other than the owner of record as provided  
 23 by the department at the time the notice is sent.
- 24 5. a. ~~[(e) 1. The third party purchaser shall submit to the~~  
 25 ~~department a copy of ]~~Any notice sent pursuant to subsections (1)  
 26 and (2) of this section based on information obtained pursuant to  
 27 this paragraph and returned as undeliverable shall be submitted to

1           the department within ten (10) days of receipt of the returned  
2           notice.

3           ~~b.[2.]~~ The department shall attempt to obtain an updated address for the  
4           owner of the property subject to the certificate of delinquency from  
5           the individual or entity filing the property tax return for the  
6           property.

7           ~~c.[3.]~~ The individual or entity filing the property tax return shall provide  
8           an address of the property owner upon request of the department.

9           ~~d.[4.]~~ The department shall provide any updated address information to  
10          the third-party purchaser.

11          ~~e.[5.]~~ If updated information is provided, the notices~~[ sent pursuant to~~  
12          ~~subsections (1) and (2) of this section]~~ shall be re-sent by first-  
13          class mail with proof of mailing to the updated address of the  
14          owner within ten (10) days of the receipt of ~~the[an]~~ updated  
15          information~~[address]~~ from the department.

16          f.    If a third-party purchaser becomes aware of a more recent or  
17          more accurate address for a delinquent taxpayer that is different  
18          from the address reflected in the records of the department, the  
19          third-party purchaser shall send notices to the updated address  
20          in the manner required by this subsection, and shall notify the  
21          department of the updated address.

22          ~~(c)[(d)]~~    The third-party purchaser shall maintain complete and accurate records  
23          of all notices sent pursuant to this section.

24          ~~(d)[(e)]~~    The notices required by this section shall include the following  
25          information:

- 26           1.    A statement that the certificate of delinquency is a lien of record against
- 27           the property for which delinquent taxes are owed;

- 1           2.    A statement that the certificate bears interest at the rate provided in KRS  
2               134.125;
- 3           3.    A statement that if the certificate is not paid, it will be subject to  
4               collection as provided by law, and that collection actions may include  
5               foreclosure. The notice required by subsection (2) of this section shall  
6               also include a statement of the intent to institute legal action to collect  
7               the amount due;
- 8           4.    A complete listing of the amount due, as of the date of the notice,  
9               broken down as follows:
  - 10           a.    The purchase price of the certificate of delinquency;
  - 11           b.    Interest accrued subsequent to the purchase of the certificate of  
12               delinquency; and
  - 13           c.    Fees imposed by the third-party purchaser;~~and~~
- 14           5.    *If the third-party purchaser is required to register with the department*  
15               *as provided in subsection (3) of Section 4 of this Act, for certificates of*  
16               *delinquency purchased after June 1, 2012, a statement informing the*  
17               *taxpayer that upon written request and the payment of a processing*  
18               *fee, the third-party purchaser will offer a payment plan; and*
- 19           6.   Information, in a format and with content as determined by the  
20               department, detailing the provisions of the law relating to third-party  
21               purchaser fees and charges.
- 22           ~~(e)~~~~(f)~~   In addition, the notice shall provide the following information to the  
23               taxpayer:
  - 24           1.    The legal name of the third-party purchaser;
  - 25           2.    The third-party purchaser's physical address;
  - 26           3.    The third-party purchaser's mailing address for payments, if different  
27               from the physical address; and

1           4. The third-party purchaser's telephone number.

2           If the information required by this paragraph changes, the third-party  
3           purchaser shall, within thirty (30) days of the change becoming effective, send  
4           a notice to each taxpayer by first-class mail with proof of mailing with the  
5           corrected information. The third-party purchaser shall also update contact  
6           information included in the records of the county clerk within ten (10) days of  
7           the change becoming effective. Failure to send the original notice or any  
8           correction notices shall result in the suspension of the accrual of all interest  
9           and any fees incurred by the third-party purchaser after that date until proper  
10          notice is given as required by this subsection.

11       (4) If a person entitled to pay a certificate of delinquency to a third-party purchaser  
12       makes payment on the certificate of delinquency to the county clerk under the  
13       conditions described in KRS 134.127(3)(d), the payment shall constitute payment in  
14       full, and no other amounts may be collected by the third-party purchaser from the  
15       person.

16       (5) (a) For certificates of delinquency purchased after June 1, 2012, at the written  
17               request of a delinquent taxpayer, a third-party purchaser required to register  
18               with the department as provided in subsection (3) of Section 4 of this Act  
19               shall provide a monthly~~[may offer an]~~ installment payment plan to a taxpayer.

20       (b) The taxpayer and third-party purchaser shall sign an agreement detailing  
21       the terms of the installment payment plan.

22       (c) The third-party purchaser may impose a processing fee, not to exceed eight  
23       dollars (\$8) per month to offset the administrative cost of providing the  
24       payment plan. No other fees, charges, interest or other amounts not  
25       expressly authorized by this chapter shall be charged, assessed or collected  
26       by the third-party purchaser.

27       (d) The existence of an agreement to provide a payment plan shall not impact

the right of the third-party purchaser to pursue legal action if the delinquent taxpayer fails to follow the terms of the installment payment agreement.

(e) Upon default of a delinquent taxpayer:

1. The third-party purchaser shall retain all amounts paid, which shall be applied to the outstanding balance due; and

2. The third-party purchaser shall not be required to offer the delinquent taxpayer another opportunity for an installment payment plan.

(f) If a third-party purchaser who was required to offer payment plans pursuant to paragraph (a) of this subsection, subsequently does not purchase a sufficient number of certificates of delinquency to require registration with the department, the third-party purchaser shall continue to offer payment plans under the conditions established by this subsection for all delinquent taxpayers whose certificates of delinquency were purchased during a period in which the third-party purchaser was required to register with the department.

(g) A third-party purchaser who is not required to register with the department as provided in subsection (3) of Section 4 of this Act, or who holds certificates of delinquency purchased prior to June 1, 2012, may voluntarily offer installment payment plans to delinquent taxpayers in accordance with the provisions of this subsection

~~[If an installment payment plan is offered, the third party purchaser shall not charge, assess, or collect from the taxpayer any fees, charges, interest, or other amounts that exceed the fees, interest, or other amounts expressly authorized by this chapter to be charged, assessed, or collected].~~

(h) The department may establish additional terms and conditions for installment payment plans in an administrative regulation.



(6) Any person to whom a third-party purchaser transfers or assigns a certificate of delinquency shall be considered a third-party purchaser under this chapter.

➔Section 7. KRS 134.504 is amended to read as follows:

(1) The department shall be responsible for the collection of certificates of delinquency and personal property certificates of delinquency. The provisions of this section relating to certificates of delinquency shall also apply to personal property certificates of delinquency unless otherwise specifically noted. The department shall offer the collection duties related to certificates of delinquency and personal property certificates of delinquency to the county attorney in each county, unless the department determines that a county attorney has previously failed to perform collection duties in a reasonable and acceptable manner.

(2) Any county attorney desiring to perform the collection duties shall enter into a contract with the department on an annual basis.

(3) The terms of the contract shall specify the duties to be undertaken by the county attorney, which shall include, at a minimum, the duties set forth in subsection (4) of this section. The terms of the contract shall also provide that, if the county attorney fails to perform the duties required by the contract during the contract period, the department may assume all collection responsibilities.

(4) The following duties shall be performed by the department or the county attorney, as the case may be, with regard to each certificate of delinquency:

(a) Within thirty (30) days after the establishment of a certificate of delinquency, the county attorney or the department shall mail a notice by regular mail to the owner of record on the assessment date at the address on the records of the property valuation administrator, or to the in-care-of address if an in-care-of address is provided as required by subsection (5) of this section. The notice shall:

1. Include the name, address, and telephone number of a contact person in

- 1 the county attorney's office or the department, as the case may be;
- 2 2. Advise that:
- 3 a. The certificate of delinquency is a lien of record against the
- 4 property on which the taxes are due;
- 5 b. The amounts due are a personal obligation of the taxpayer on the
- 6 assessment date; and
- 7 c. The certificate bears interest at the rate of twelve percent (12%)
- 8 and, if not paid, will be subject to collection by the county attorney
- 9 or the department as provided by law;
- 10 3. Include the total amount due as of the date of the notice;
- 11 4. Advise that anytime after ninety (90) days from the creation of the
- 12 certificate of delinquency, the certificate of delinquency may be paid by
- 13 a third-party purchaser and, that if so paid, the certificate of delinquency
- 14 will be subject to collection by the third-party purchaser as provided by
- 15 law. The notice shall also advise that a third-party purchaser may impose
- 16 substantial additional administrative costs and fees associated with
- 17 collection in addition to the amount due on the certificate of
- 18 delinquency, and that collection actions may include foreclosure. This
- 19 provision shall not be included in notices sent for personal property
- 20 certificates of delinquency; and
- 21 5. Advise that the taxpayer may qualify for a payment plan with the county
- 22 attorney or the department, if the taxpayer meets the requirements
- 23 established by the county attorney or the department, and if terms are
- 24 agreed to prior to the date of the sale.
- 25 (b) The county attorney or the department shall file in the office of the county
- 26 clerk a list of the names and addresses to which the thirty (30) day notice was
- 27 mailed along with a certificate attesting that the notices were mailed in

1 accordance with the requirements of this section.

- 2 (c) 1. All thirty (30) day notices returned as undeliverable shall be submitted  
3 by the county attorney or department to the property valuation  
4 administrator, and a list of the returned notices shall be filed with the  
5 county clerk, who shall record the list in the order book of the county.
- 6 2. The property valuation administrator shall attempt to correct inadequate  
7 or erroneous addresses and, if property has been transferred, shall  
8 determine the new owner, current mailing address, and in-care-of  
9 address, if any, as provided in KRS 382.135.
- 10 3. The property valuation administrator shall return the notices with the  
11 corrected information to the county attorney or the department within  
12 twenty (20) days of receipt.
- 13 4. Upon receipt of the new information from the property valuation  
14 administrator, the county attorney or the department shall resend the  
15 notice required by paragraph (a) of this subsection using the updated  
16 information.
- 17 (d) 1. At least twenty (20) days after the mailing of the thirty (30) day notice  
18 required by paragraph (a) of this subsection, but within sixty (60) days  
19 of the establishment of a certificate of delinquency, the county attorney  
20 or department shall send a second notice, by regular mail, to owners of  
21 record whose tax bills remain delinquent, or to the in-care-of addresses  
22 or corrected address, if information regarding a new property owner has  
23 been received by the county attorney or the department under the  
24 provisions of paragraph (c) of this subsection. The notice shall include,  
25 at a minimum, the following information:
- 26 a. The name, address, and telephone number of a contact person in  
27 the county attorney's office or the department, as the case may be;

1           b. A statement that a sale of tax claims will be held by the county  
2           clerk on the date established by the department for the sale. The  
3           text of the statement shall include the actual sale date, as well as a  
4           statement noting that the certificate of delinquency may be paid by  
5           a third-party purchaser at the sale, and if the certificate of  
6           delinquency is paid by a third-party purchaser, it will be subject to  
7           collection by the third-party purchaser as provided by law, that  
8           significant additional collection fees will be imposed by the third-  
9           party purchaser, and that collection actions may include  
10          foreclosure. This statement shall not be included in notices sent to  
11          owners of property subject to a personal property certificate of  
12          delinquency; and

13          c. A statement that the taxpayer may qualify for a payment plan with  
14          the county attorney or the department, if the taxpayer meets the  
15          requirements established by the county attorney or the department  
16          and if terms are agreed to prior to the date of the sale.

17          2. The county attorney or the department shall file in the office of the  
18          county clerk a list of the names and addresses to which the sixty (60) day  
19          notice was mailed, along with a certificate attesting that the notices were  
20          mailed in accordance with the requirements of this section.

21          3. If the notice required by paragraph (c) of this subsection is returned as  
22          undeliverable, and the property valuation administrator is not able to  
23          provide a corrected or updated address, the county attorney or the  
24          department shall address the sixty (60) day notice to "Occupant" and  
25          shall mail the notice to the address of the property to which the  
26          certificate of delinquency applies.

27          (e) The county attorney or the department shall deliver to the property valuation

1 administrator, at the same time the notice required by paragraph (d) of this  
2 subsection is sent, a list of the owners whose tax bills remain delinquent. The  
3 property valuation administrator shall review this list in accordance with KRS  
4 132.220 to establish that the properties on the list can be identified and  
5 physically located.

6 (f) Anytime after the expiration of the one (1) year tolling period established by  
7 KRS 134.546, the county attorney or department may institute an action to  
8 collect the amount due on a certificate of delinquency owned by the taxing  
9 jurisdictions and in the possession of the county clerk. At least forty-five (45)  
10 days before instituting a legal action, the county attorney or department shall  
11 send, by regular mail, a notice of intent to initiate legal action to enforce the  
12 lien. The notice shall be sent to the owner of record of the property or to the  
13 in-care-of address or corrected address if either has been provided pursuant to  
14 this section.

15 (5) If property subject to a certificate of delinquency has been transferred in any year  
16 after the assessment date, the property valuation administrator shall determine the  
17 in-care-of address supplied in the deed pursuant to KRS 382.135 and shall provide  
18 that information to the county attorney or the department.

19 (6) (a) Failure of the county attorney or the department to mail the notices required in  
20 subsection (4) of this section shall not affect the validity of the claim of the  
21 state, county, school district, and taxing district. However, the county attorney  
22 or the department shall not receive any compensation, commission, or  
23 payment related to any certificate of delinquency for which the notices  
24 required by the provisions of subsection (4) of this section are not sent.

25 (b) For each notice mailed, one dollar (\$1) shall be added to the amount of the  
26 certificate of delinquency, to offset the cost of mailing, and, upon collection,  
27 the county attorney or the department shall be paid such amounts as

- 1 reimbursement for mailing costs.
- 2 (7) (a) As compensation for the collection duties performed pursuant to a contract  
3 with the department, a county attorney shall be paid twenty percent (20%) of  
4 the amount due each taxing unit during the contract period, whether the  
5 amount is paid voluntarily, through sale, or under court order, and whether the  
6 amount is paid to the county clerk or the county attorney. The fee for the  
7 county attorney shall be added to the amount of the certificate of delinquency  
8 and shall be paid by the person paying the certificate of delinquency.
- 9 (b) If payment in full is voluntarily made by the taxpayer to the county attorney or  
10 county clerk within five (5) days of the filing of the tax claim with the county  
11 clerk, the county attorney fee shall be waived.
- 12 (c) If a county attorney files a court action or files a cross-claim, the county  
13 attorney shall be paid an additional fee of thirteen percent (13%) of the  
14 amount of the certificate of delinquency and shall be reimbursed for costs  
15 incident to the court action. The additional fee and costs incident to the  
16 litigation shall be added to the certificate of delinquency and shall be paid by  
17 the person paying the certificate of delinquency.
- 18 (d) If more than one (1) county attorney renders necessary services to collect on a  
19 certificate of delinquency, the county attorney serving the last notice or  
20 rendering the last substantial service preceding collection shall be entitled to  
21 the fee.
- 22 (8) (a) The county attorney shall establish a system to accept installment payments  
23 from delinquent taxpayers. The county attorney may, during the contract  
24 period, enter into an agreement with a delinquent taxpayer to accept  
25 installment payments on the certificates of delinquency. The agreement shall  
26 not waive the county attorney's right to initiate court action or other authorized  
27 collection activities if the taxpayer does not make payments in accordance

1 with the agreement.

2 (b) The county attorney may, upon written request of the taxpayer for good cause  
3 and with agreement of the affected taxing jurisdiction or fee recipient, waive  
4 or reduce fees and penalties that are part of a certificate of delinquency during  
5 settlement or negotiation with a taxpayer in accordance with guidance  
6 provided by the department.

7 (9) Any action by the county attorney authorized by this chapter shall be filed on  
8 relation of the commissioner. A copy of any judgment obtained by the county  
9 attorney shall be sent to the department.

10 (10) (a) The county attorney shall notify the county clerk and the department of the  
11 filing of a suit at the time the suit is filed and of payment agreements at the  
12 time such agreements are entered into. The county clerk shall note on the  
13 certificate of delinquency the filing of the lawsuit or the existence of the  
14 payment agreement, and these certificates of delinquency shall not be  
15 available for purchase or payment by a third-party purchaser.

16 (b) The county attorney shall provide to the county clerk at least ten (10) days but  
17 not more than twenty (20) days prior to the annual sale date for the county  
18 established pursuant to KRS 134.128, a protected list of current year  
19 certificates of delinquency that are:

- 20 1. Under a payment plan with the county attorney on which payments are  
21 current;
- 22 2. Involved in litigation initiated by the county attorney or in which the  
23 county attorney responds or files an answer; ~~or~~and
- 24 3. Involved in bankruptcy litigation in which the county attorney has filed a  
25 claim.

26 The list shall include sufficient detail for the county clerk to accurately  
27 identify the property.

1 (c) The county attorney shall notify the county clerk of the failure of any payment  
 2 agreement and, upon notification to the clerk, the certificate of delinquency  
 3 shall be available for purchase.

4 (11) The department may make its delinquent tax collection databases and other  
 5 technical resources, including but not limited to tax refund offsetting, available to  
 6 the county attorney upon request from the county attorney. The county attorney  
 7 seeking assistance shall enter into any agreements required by the department to  
 8 protect taxpayer confidentiality, to ensure database integrity, or to address the  
 9 concerns of the department.

10 (12) (a) If a county attorney chooses not to contract for collection duties, or if a county  
 11 attorney fails to perform the duties required by the contract, the department  
 12 shall assume responsibility for all uncollected certificates of delinquency and  
 13 personal property certificates of delinquency, including, at the option of the  
 14 department, those with pending court action or for which the county attorney  
 15 has entered into an installment payment agreement.

16 (b) If the department assumes or retains responsibility for the collection of  
 17 certificates of delinquency and personal property certificates of delinquency,  
 18 the twenty percent (20%) fee that would have been paid to the county attorney  
 19 under subsection (7) of this section, and any other fees or costs established by  
 20 this section for the county attorney shall be paid to the department for deposit  
 21 in the delinquent tax fund provided for under KRS 134.552.

22 ➔Section 8. KRS 134.551 is amended to read as follows:

23 (1) If a certificate of delinquency or personal property certificate of delinquency held by  
 24 an individual is declared void by a court of competent jurisdiction because of the  
 25 irregularity of taxing officers, the amount for which the certificate was issued shall  
 26 be refunded by the state, county, and taxing districts on a pro rata basis. If a school  
 27 district or county is unable to make the refund currently when requested, it shall be



1 given preference from the next year's revenue. The application for refund must be  
 2 made within one (1) year after the judgment. The property covered by the void  
 3 certificate shall be assessed immediately as omitted property and the tax bill shall be  
 4 payable as soon as prepared.

5 (2) (a) If a certificate of delinquency held by a third-party purchaser who paid the  
 6 certificate of delinquency to the county clerk:

7 1. Is unenforceable because:

- 8 a. It is a duplicate certificate of delinquency;
- 9 b. The tax liability represented by the certificate of delinquency was  
 10 satisfied prior to the purchase of the certificate of delinquency;
- 11 c. All or a portion of the certificate of delinquency is exonerated; or
- 12 d. The property to which the certificate of delinquency applies was  
 13 not subject to taxes as a matter of law as certified by the property  
 14 valuation administrator; or

15 2. Should not have been sold because, on the date of the annual sale, the  
 16 certificate of delinquency met the requirements for inclusion on the  
 17 protected list pursuant to KRS 134.504(10) and it:

- 18 a. Was included on the protected list;
- 19 b. Was mistakenly left off the protected list; or
- 20 c. Became eligible for inclusion on the protected list between the date  
 21 the protected list was submitted and the date of sale;

22 the third-party purchaser may apply to the county clerk for a refund.

23 (b) The application for refund filed with the county clerk shall include written  
 24 proof that one (1) of the situations described in paragraph (a) of this  
 25 subsection exists with regard to the certificate of delinquency for which a  
 26 refund is sought.

27 (c) 1. Upon acceptance and approval of the application for refund, the county

1 clerk shall approve a refund of the amount paid to the county clerk by  
 2 the third-party purchaser in satisfaction of the certificate of delinquency.

3 *The refunded amount shall not include any filing fees paid by the*  
 4 *third-party purchaser to the county clerk.*

5 2. Amounts refunded to the third-party purchaser shall be deducted from  
 6 amounts in the hands of the county clerk due to the state, county, taxing  
 7 districts, sheriff, county attorney, and the county clerk on a pro rata  
 8 basis, if the county clerk has sufficient funds in his or her hands to make  
 9 the refund.

10 3. If the county clerk does not have sufficient funds to make the refund at  
 11 the time the refund is approved, the county clerk may either:

12 a. Retain the approved refund claim in his or her office and make the  
 13 refund payment as soon as he or she has sufficient funds in his or  
 14 her hands to make the refund payment; or

15 b. Provide a signed letter to the person to whom payment is due,  
 16 which includes the amount due from each taxing jurisdiction or fee  
 17 office, and which directs each taxing jurisdiction or fee official to  
 18 pay to the person the amount due and owing from that taxing  
 19 jurisdiction or fee official as reflected in the letter.

20 4. Upon the making of a refund to a third-party purchaser, the county clerk  
 21 shall issue and file a release of the lien on the property assessed for taxes  
 22 as provided in this subparagraph *without charge to the third-party*  
 23 *purchaser.* The release shall be linked to the encumbrance in the county  
 24 clerk's indexing system.

25 a. The department shall prepare a release form to be used by the  
 26 county clerk when a refund is paid under this paragraph. The form  
 27 shall include, at a minimum, the following:

- i. The name and address of the taxpayer;
  - ii. The name and address of the third-party purchaser;
  - iii. The book and page number of the third-party purchaser's lis pendens filing;
  - iv. The property address;
  - v. The applicable tax year; and
  - vi. The map identification number or tax bill number.
- b. The release form shall be signed by the government official responsible for making the correction.
  - c. In addition to the signed release form, information filed by the county clerk shall include a copy of the documentation provided by the government official and a copy of the refund check or letter of refund authorization issued to the third-party purchaser. The county clerk shall record and file this information without a fee.
  - d. The county clerk shall also make any necessary corrections to the tax records within the office of the county clerk.
  - e. The county clerk shall return the release document to the taxpayer and shall provide a copy of the release document to the third-party purchaser.
- (d) If the county clerk denies the application for refund, or the property valuation administrator fails to certify that property was not subject to taxes as a matter of law, the third-party purchaser may appeal the decision of the county clerk or the property valuation administrator to the Kentucky Board of Tax Appeals~~[department. The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the process for appeal in accordance with KRS Chapter 13B].~~

➔ Section 9. KRS 132.220 is amended to read as follows:

- 1 (1) (a) All taxable property and all interests in taxable property, unless otherwise  
 2 specifically provided by law, shall be listed, assessed, and valued as of  
 3 January 1 of each year.
- 4 (b) 1. It shall be the duty of the holder of the first freehold estate in any real  
 5 property taxable in this state to list or have listed the property with the  
 6 property valuation administrator of the county where it is located  
 7 between January 1 and March 1 in each year, except as otherwise  
 8 provided by law.
- 9 2. It shall be the duty of all persons owning any tangible personal property  
 10 taxable in this state to list or have listed the property with the property  
 11 valuation administrator of the county of taxable situs or with the  
 12 department between January 1 and May 15 in each year, except as  
 13 otherwise prescribed by law.
- 14 3. The holder of legal title, the holder of equitable title, and the claimant  
 15 or bailee in possession of the property on the assessment date as  
 16 provided by law shall be liable for the taxes thereon and the property  
 17 may be assessed in any of their names. But, as between them, the  
 18 holder of the equitable title shall pay the taxes thereon, whether or not  
 19 the property is in his or her possession at the time of payment.
- 20 4. All persons in whose name property is properly assessed shall remain  
 21 bound for the tax, notwithstanding they may have sold or parted with it.
- 22 (2) Any taxpayer may list his or her property in person before the property valuation  
 23 administrator or his deputy, or may file a property tax return by first class mail. Any  
 24 real property correctly and completely described in the assessment record for the  
 25 previous year, or purchased during the preceding year and for which a value was  
 26 stated in the deed according to the provisions of KRS 382.135, may be considered  
 27 by the owner to be listed for the current year if no changes that could potentially

1 affect the assessed value have been made to the property. However, if requested in  
2 writing by the property valuation administrator or by the department, any real  
3 property owner shall submit a property tax return to verify existing information or  
4 to provide additional information for assessment purposes. Any real property which  
5 has been underassessed as a result of the owner intentionally failing to provide  
6 information, or intentionally providing erroneous information, shall be subject to  
7 revaluation, and the difference in value shall be assessed as omitted property under  
8 the provisions of KRS 132.290.

9 (3) If the owner fails to list the property, the property valuation administrator shall  
10 nevertheless assess it. The property valuation administrator may swear witnesses in  
11 order to ascertain the person in whose name to make the list. The property valuation  
12 administrator, his or her employee, or employees of the department may physically  
13 inspect and revalue land and buildings in the absence of the property owner or  
14 resident. The exterior dimensions of buildings may be measured and building  
15 photographs may be taken; however, with the exception of buildings under  
16 construction or not yet occupied, an interior inspection of residential and farm  
17 buildings, and of the nonpublic portions of commercial buildings shall not be  
18 conducted in the absence or without the permission of the owner or resident.

19 (4) Real property shall be assessed in the name of the owner, if ascertainable by the  
20 property valuation administrator, otherwise in the name of the occupant, if  
21 ascertainable, and otherwise to "unknown owner." The undivided real estate of any  
22 deceased person may be assessed to the heirs or devisees of the person without  
23 designating them by name.

24 (5) (a) Real property tax roll entries for which tax bills have not been collected at the  
25 expiration of the one (1) year tolling period provided for in KRS 134.546, and  
26 for which the property valuation administrator cannot physically locate and  
27 identify the real property, shall be deleted from the tax roll and the assessment

1 shall be exonerated.

2 (b) The property valuation administrator shall keep a record of these exonerations,  
3 which shall be open under the provisions of KRS 61.870 to 61.884.

4 (c) If, at any time, one of these entries is determined to represent a valid parcel of  
5 property it shall be assessed as omitted property under the provisions of KRS  
6 132.290.

7 (d) Notwithstanding other provisions of the Kentucky Revised Statutes to the  
8 contrary, any loss of ad valorem tax revenue suffered by a taxing district due  
9 to the exoneration of these uncollectable tax bills may be recovered through  
10 an adjustment in the tax rate for the following year.

11 (6) All real property exempt from taxation by Section 170 of the Constitution shall be  
12 listed with the property valuation administrator in the same manner and at the same  
13 time as taxable real property. The property valuation administrator shall maintain an  
14 inventory record of the tax-exempt property, but the property shall not be placed on  
15 the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the  
16 department within thirty (30) days of the close of the listing period. This inventory  
17 shall be in the form prescribed by the department. The department shall make an  
18 annual report itemizing all exempt properties to the Governor and the Legislative  
19 Research Commission within sixty (60) days of the close of the listing period.

20 (7) Each property valuation administrator, under the direction of the department, shall  
21 review annually all real property listed with him or her under subsection (6) of this  
22 section and claimed to be exempt from taxation by Section 170 of the Constitution.  
23 The property valuation administrator shall place on the tax rolls all property that is  
24 not exempt. Any property valuation administrator who fails to comply with this  
25 subsection shall be subject to the penalties prescribed in KRS 132.990(2).

26 ➔Section 10. KRS 133.130 is amended to read as follows:

27 (1) Any person claiming to be erroneously charged with any tax upon property not

owned by the person<sup>[him]</sup> may, after the person<sup>[he]</sup> has received notice of the same by demand made upon the person<sup>[him]</sup> to pay the tax, offer evidence in support of the complaint to the property valuation administrator of the county in which the assessment was made or to the department, if the assessment was made by the department. If the property valuation administrator or the department finds that the person<sup>[he]</sup> was not the owner of the property assessed, the property valuation administrator or the department<sup>[he]</sup> may correct the same by releasing the person<sup>[him]</sup> from the payment of the tax, and shall assess the property immediately against the rightful owner.

- (2) A protest may be made to the department<sup>[Department of Revenue]</sup> under the provisions of KRS 131.110 from any action of the property valuation administrator or the department made under this section or under KRS 133.110.

➔Section 11. KRS 134.126 is amended to read as follows:

- (1) (a) The county clerk shall receive and record payments for all certificates of delinquency and personal property certificates of delinquency filed by the sheriff pursuant to KRS 134.122.
- (b) The county clerk may accept payment by any commercially acceptable means. The county clerk may limit the acceptable methods of payment to those that ensure that the payment cannot be reversed or nullified due to insufficient funds.
- (2) The county clerk shall give a receipt to the person making payment.
- (3) The county clerk shall report by the tenth day of each month to the department, the county treasurer, the sheriff, and the proper officials of the taxing districts. The governing body of a county may require the county clerk to report and pay on a more frequent basis if necessary for bonding requirements; however, the county clerk shall not be required to report and pay more frequently than weekly.
- (4) The county clerk shall allocate payments among the various entities entitled to a

1 portion of the payment. The county clerk shall, at the time he or she makes the  
2 reports required by subsection (3) of this section:

3 (a) Pay to the department for deposit in the State Treasury all moneys received  
4 due the state;

5 (b) Pay to the county treasurer all moneys received due the county;

6 (c) Pay to the authorized officers of the taxing districts the amount due each  
7 taxing district; and

8 (d) Pay the amount of fees, costs, commissions, and penalties to the persons,  
9 agencies, or parties entitled thereto.

10 (5) (a) Upon full payment of a certificate of delinquency or personal property  
11 certificate of delinquency owned by the state, county, and taxing districts, the  
12 county clerk shall note on the certificate the name and address of the person  
13 making the payment, the amount paid, and any other information the  
14 department may require. The clerk shall mark the certificate of delinquency or  
15 personal property certificate of delinquency paid in full.

16 (b) If payment in full is made by a person other than the person primarily liable on  
17 the certificate, the person making the payment may request that the payment  
18 be treated as an assignment. Upon such request, the county clerk shall:

19 1. Note the assignment on the certificate of delinquency or personal  
20 property certificate of delinquency;

21 2. Record the encumbrance represented by the certificate of delinquency in  
22 the same manner as a notice of lis pendens; and

23 3. Include as part of the encumbrance recording the information required  
24 by KRS 134.490(3)(e)(~~f~~).

25 For recording the assignment and encumbrance, the county clerk shall receive  
26 the fee provided in KRS 64.012.

27 (c) If a person other than the person primarily liable on the certificate does not



request the payment to be treated as an assignment, he or she shall be treated in the same manner as the person primarily liable on the certificate, and any payment made pursuant to this subsection shall not constitute an assignment of the certificate. The payor shall not be subrogated to the lien of the state, county, and taxing districts as provided in subsection (8) of this section, and shall not be considered a third-party purchaser under the provisions of this chapter, or a transferee under KRS 134.121.

(6) After the initial recording of an assignment of a certificate of delinquency or personal property certificate of delinquency as provided in subsection (5)(b) of this section, all subsequent actions relating to that certificate of delinquency or personal property certificate of delinquency, including assignments and releases shall be made in accordance with the general laws and procedures governing land records, except the additional information required by KRS 134.490(3)(e)~~[(f)]~~ shall be included. The applicable fees established by KRS 64.012 shall apply.

(7) A certificate of delinquency or personal property certificate of delinquency shall be assignable. Failure of an assignee to record the assignment shall render the claim of such person to any real estate represented thereby inferior to the rights of other bona fide purchasers, payors, or creditors.

(8) Any person other than the person primarily liable on a certificate who:

(a) Pays the certificate of delinquency in full, and who requests to the county clerk that the payment be treated as an assignment pursuant to subsection (5)(b) of this section; or

(b) Is the assignee of such a person, if the assignment has been recorded as required by this section or KRS 134.127;

shall be subrogated to the lien priority of the state, county, and taxing districts as provided in KRS 134.420, and the amount due may be collectible as provided in KRS 134.546(2).

(9) As compensation for collection of payments on certificates of delinquency, personal property certificates of delinquency, and other delinquent taxes, and the processing of delinquent property tax payments, the county clerk shall be paid ten percent (10%) of the amount due each taxing unit for each certificate of delinquency, personal property certificate of delinquency, or other delinquent tax claim. The fee shall be added to the amount of the tax claim and shall be paid by the person paying the tax claim.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of the Kentucky Revised Statutes:

(1) A county clerk may establish procedures for obtaining copies of records under his or her control, including restricting the use of devices including but not limited to scanners, cameras, computers, personal copiers, or other devices that may be used by an individual seeking a copy of a document maintained by the clerk, but a clerk shall not restrict the ability of any person to make handwritten notes regarding documents and records maintained by the clerk.

(2) (a) Unless the provisions of paragraph (b) of this subsection apply, the county clerk shall collect a per-page fee, not to exceed fifty cents (\$0.50) per page, for providing legal size or smaller paper copies of records or documents maintained by the clerk.

(b) If a higher fee for copying a document or record is specifically established by statute, the provisions of that statute shall prevail over the provisions of this subsection.

➔Section 13. KRS 134.452 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter, a third-party purchaser of a certificate of delinquency shall be entitled to collect only the following prelitigation fees:

1       ~~(a){(1)}~~     The amount actually paid for the certificate of delinquency;

2       ~~(b){(2)}~~     Interest as provided in KRS 134.125, calculated on the amount actually  
3               paid to the county clerk from the date the certificate of delinquency was  
4               purchased until paid; and

5       ~~(c){(3)}~~     Prelitigation attorneys' fees, which may include amounts incurred for  
6               collection efforts and costs related to notification, processing, research,  
7               communication, compliance, legal costs, documentation, and similar  
8               expenses, from the date the third-party purchaser purchases the certificate  
9               of delinquency from the county clerk, to the date on which the notice  
10              required by subsection (2) of Section 6 of this Act is mailed by the third-  
11              party purchaser. The amount that may be collected by the third-party  
12              purchaser as prelitigation attorneys' fees shall be subject to the following  
13              limitations:~~[ as provided in this subsection.]~~

14       1.   a.~~{(a)}~~ ~~Attorneys' fees incurred for collection efforts prior to litigation as~~  
15               follows:

16       ~~1.}~~     If the amount paid for a certificate of delinquency is between five dollars  
17               (\$5) and three hundred fifty dollars (\$350), actual reasonable fees  
18               incurred up to one hundred percent (100%) of the amount of the  
19               certificate of delinquency, not to exceed three hundred fifty dollars  
20               (\$350);

21       b.~~{2.}~~ If the amount paid for a certificate of delinquency is between three  
22               hundred fifty-one dollars (\$351) and seven hundred dollars (\$700),  
23               actual reasonable fees incurred up to eighty percent (80%) of the  
24               amount of the certificate of delinquency, not to exceed five  
25               hundred sixty dollars (\$560); and

26       c.~~{3.}~~ If the amount paid for a certificate of delinquency is above seven  
27               hundred one dollars (\$701), actual reasonable fees incurred up to

seventy percent (70%) of the amount of the certificate of delinquency, not to exceed seven hundred dollars (\$700).

~~d.[(b)]~~ If a third-party purchaser is the owner of more than one (1) certificate of delinquency against the same taxpayer, actual and reasonable prelitigation attorneys' fees for all certificates of delinquency against the same taxpayer shall not exceed one and one-half (1.5) times the maximum amount permitted in paragraph (a) of this subsection for the largest tax bill owed by the taxpayer; ~~and[.]~~

2. The amounts allowed by subparagraph 1. of this paragraph shall not accrue to the account of the delinquent taxpayer, nor be charged by the third-party purchaser against the delinquent taxpayer all at one (1) time unless the amount of certificate of delinquency is one hundred seventy-five dollars (\$175) or less. The third-party purchaser may accrue to the account of the delinquent taxpayer, and charge the delinquent taxpayer an amount equal to the lesser of prelitigation attorney's fees incurred by the third-party purchaser since the prior notice was sent, or one hundred seventy-five dollars (\$175), for each notice sent to the delinquent taxpayer provided that:

a. The total aggregate amount of prelitigation attorneys' fees that may accrue to the account of the delinquent taxpayer and be charged by the third-party purchaser against the delinquent taxpayer shall not exceed the limitations established by paragraph (a) of this subsection; and

b. Additional fees shall not accrue to the account of the delinquent taxpayer or be charged by the third-party purchaser against the delinquent taxpayer more frequently than every ninety (90) days,

1 regardless of how many notices the third-party purchaser may  
 2 send.

3 (2) If the delinquent taxpayer and the third-party purchaser enter into a payment  
 4 agreement, the third-party purchaser may collect the installment payment  
 5 processing fee authorized by subsection (5) of Section 6 of this Act.

6 (3)(e) In addition to the ~~prelitigation attorneys'~~ fees established by subsections (1),  
 7 (2), and (4) of this section ~~[paragraphs (a) and (b) of this subsection]~~, a third-party  
 8 purchaser may collect actual, reasonable attorneys' fees and costs that arise due to  
 9 the prosecution of collection remedies or the protection of a certificate of  
 10 delinquency that is involved in litigation. Fees and costs permitted under this  
 11 subsection include fees and costs incurred from the first day after the notice  
 12 required by subsection (2) of Section 6 of this Act is sent through the day any  
 13 litigation is finally concluded. ~~;~~ ~~and~~

14 (4) The third-party purchaser may collect administrative fees incurred for preparing,  
 15 recording, and releasing an assignment of the certificate of delinquency in the  
 16 county clerk's office, not to exceed one hundred fifteen dollars (\$115) ~~(\$100)~~.

17 (5) The General Assembly recognizes that third-party purchasers play an important  
 18 role in the delinquent tax collection system, allowing taxing districts to receive  
 19 needed funds on a timely basis. The General Assembly has carefully considered  
 20 the fees and charges authorized by this section, and has determined that the  
 21 amounts established are reasonable based on the costs of collection and fees and  
 22 charges incurred in litigation.

23 (6) A certificate of delinquency owned by a third-party purchaser shall be deemed a  
 24 general intangible for the purposes of Article 9 of KRS Chapter 355.

25 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO  
 26 READ AS FOLLOWS:

27 (1) On or before May 15, 2013, and each May 15 thereafter, each county clerk shall

provide or shall arrange to provide to the department a list of all certificates of delinquency received by the county clerk from the sheriff for that year, and that are in the possession of the clerk on the day the information is provided. The list shall include, at a minimum, the property owner name, property address, and parcel number or lot number if available. To the extent possible, the list shall be provided to the department in an electronic format.

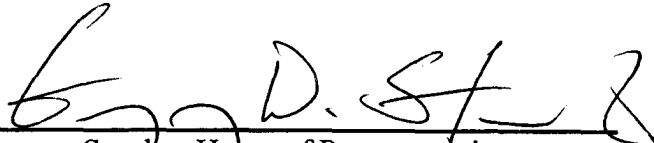
(2) On or before June 1, 2013 and on or before each June 1 thereafter, the department shall publish on its Internet Web site a consolidated list of certificates of delinquency by county. To the extent possible, within each county, the list shall be in alphabetical order by property owner name, and shall include at a minimum the property owner name, property address, and parcel number or lot number if available.

(3) The information required by this section shall be provided by the county clerks and department as a public service. The department, county clerk and the employees thereof shall be held harmless regarding the content or any omission relating to information provided.

(4) If the tax collection schedule is delayed in any county, that county shall provide the information required by subsection (1) to the department within thirty (30) days of receipt from the sheriff, and the department shall publish the information on its website within fifteen (15) days of receipt from the county clerk.

➔Section 15. The amendments made in Section 13 of this Act shall apply to certificates of delinquency purchased on or after the effective date of this Act.

➔Section 16. Because the provisions of this Act are necessary to clarify provisions relating to the sale of delinquent tax bills, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

  
Speaker-House of Representatives

  
President of Senate

Attest:   
Chief Clerk of House of Representatives

Approved   
Governor

Date 4-23-12